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SUBJECT: Vietnam: STAR Experts Discuss GVN WTO Preparations

¶11. This cable contains sensitive information and should not be posted on the internet.

¶12. (SBU) Summary: On March 3, the Ambassador hosted a lunch with staff and consultants of the USAID-funded Support for Trade Acceleration (STAR) Project and representatives of the European Union to discuss the status of GVN efforts to accede to the WTO. Participants noted GVN officials may be trying to dampen public expectations regarding Vietnam's ability to accede in 2005; it remains difficult to assess what role the National Assembly will have in facilitating passage of WTO-related legislation; and an omnibus bill would provide a useful mechanism to fill in "gaps" not covered by legislation already on track to be approved in 2005. The Ambassador and EU Ambassador Markus Cornaro agreed to explore a coordinated approach to the GVN on the legislative requirements for WTO accession. Septel will provide an update on the specific technical assistance STAR is providing on WTO-related legislation. End Summary.

¶13. (U) On March 3, the Ambassador hosted a lunch with staff and consultants of the USAID-funded Support for Trade Acceleration (STAR) Project and representatives of the European Union to discuss the status of GVN efforts to accede to the WTO. The EU Ambassador to Vietnam Markus Cornaro, EU Trade Counselor, Econ/C, USAID Country Manager and Econoff (notetaker) also attended the lunch.

Internal Debate

¶14. (SBU) Even as GVN officials push forward with WTO bilateral negotiations and passage of WTO-related legislation, GVN officials are taking steps to dampen public expectations regarding the possibility of accession in 2005. EU Ambassador Cornaro noted that the GVN has been very careful in recent public statements not to make accession in 2005 a make or break issue for the Government. GVN officials have tended to say that Vietnam will accede "soon" rather than "in 2005" in recent public statements. More explicitly, on March 1, Minister of Trade Truong Dinh Tuyen was quoted in the press as saying that WTO negotiations have been "tougher than Vietnam expected" and accession by the end of the year is "almost unattainable" for Vietnam.

¶15. (SBU) According to the STAR Project, the GVN and National Assembly (NA) leaders called a meeting on March 4 specifically to discuss whether it is still feasible for the GVN to meet its December 2005 deadline for WTO accession, and if so, how to finish all of the necessary legislation. The hastily arranged meeting reflects the GVN's growing unease about its ability to accede in 2005 as well as its recognition of the need for greater coordination between the Government and the NA on passage of legislation. (Note: MOT's chief WTO negotiator Tran Quoc Khanh had previously confirmed this meeting to Econ Counselor. Post will report Septel on its outcome. End Note.) Ambassador Michael Samuels, President of Samuels Associates International and a former U.S. Ambassador to the GATT (and a STAR consultant), opined that, based on his discussions with GVN officials the last two weeks in Hanoi and HCMC, he believes accession in 2005 is still "possible," but not "probable." Political decisions still have to be made and this will be difficult for the GVN to do quickly, he explained.

Role of the National Assembly

¶16. (SBU) Ambassador Samuels emphasized that it is still not clear what impact an increasingly more "activist" NA will have on the passage of legislation. The NA committees tasked with oversight of key WTO legislation appear more inclined than in the past to make significant changes to drafts submitted by GVN drafting teams, he noted. Recently

the Law Committee made a number of changes to the draft Civil Code submitted by the Ministry of Justice (MOJ). These changes have weakened the draft of the law and STAR consultants and the MOJ drafters are seeking opportunities to reverse them. In addition, coordination between individual NA committees can be "tricky," complicating efforts to ensure provisions on related laws overseen by different committees do not contradict each other. For example, while the Law Committee is handling the Civil Code, the Committee on Economics and Budgetary Affairs (CEBA) is overseeing revisions to the Commercial Law. Together these two laws will establish the framework for commercial transactions in Vietnam and it is important that the drafts complement each other. STAR has worked to develop joint programs with these two committees to improve coordination on the drafts.

¶17. (SBU) According to the STAR Project team, it is still not clear which NA committee will control the WTO legislative process. The Committee on Foreign Affairs was critical for passage of the Bilateral Trade Agreement and will likely have a role in WTO as well. (Note: This committee is overseeing passage of the new Law on International Treaties, which will govern how Vietnam ratifies WTO accession. End Note.) However, the Law Committee (one of the most conservative NA committees) is responsible for a number of key pieces of legislation and will clearly have an important role in the process.

Need for Omnibus Bill

¶18. (SBU) As its self-imposed December 2005 deadline for accession grows closer, the GVN is struggling over how to make the legislative process more efficient. Ambassador Samuels reported that he had advised the GVN to look at the situation "practically." Use of an omnibus bill could significantly streamline passage of necessary rules and regulations. EU Ambassador Cornaro noted that he believed the WTO Working Party would prefer for Vietnam to accomplish as much as possible in individual legislation, rather than resort too quickly to the use of an omnibus bill. The STAR team stressed that a significant number of laws already in process are slated for passage by the NA in 2005. Progress on these laws is moving quickly and there is domestic pressure to complete the reforms. An omnibus bill might only be necessary to "fill in the gaps," a STAR team member noted.

¶19. (SBU) Fred Burke, Managing Partner at Baker & McKenzie (and a STAR consultant) pointed out that meeting WTO requirements is not just about having laws that "look good." The GVN also needs to put in place effective implementing regulations. The question then becomes, should the WTO require Vietnam to have the implementing regulations finished prior to accession. If so, it could be a long time before Vietnam is ready for WTO, Burke stressed.

Drafts

¶10. (SBU) Ambassador Samuels noted that STAR has been "bombarding" the GVN with the message that they need to begin sending drafts to the Working Party (WP) for review. However, he added, the decision to share early drafts with the WP invokes questions of sovereignty that the GVN is still struggling to resolve internally. The STAR team pointed out that the GVN has posted many draft laws in Vietnamese on the Vietnam Chamber of Commerce and Industry's (VCCI) website for comment and that STAR has done unofficial translations of many of these. However, the GVN does not appear to have formal translations of the laws ready for submission to the WP. Participants in the luncheon agreed that a visit by WTO staff to Vietnam soon would be very useful to spur GVN efforts in this area.

Diplomatic Efforts

¶11. (SBU) Pondering the question of how WTO members could better help facilitate Vietnam's accession efforts, the Ambassador said that the proposed visit of a senior GVN official to the United States this summer would likely serve as a "catalyst" to accelerate Vietnam's accession. However, although the GVN would like to conclude a bilateral agreement as a "deliverable" for the visit, there is a limit to how much leverage the visit will provide. The Ambassador and EU Ambassador Cornaro both emphasized the need for a unified voice on WTO with the GVN. Ambassador Cornaro said it would be better to coordinate the message as "friends of Vietnam." The Ambassador noted that he wants to ensure that the GVN does not view the United States as the only obstacle to accession. He and Ambassador Cornaro agreed to explore a coordinated approach to the GVN on the legislative requirements for WTO accession.

